

HOUSE BILL No. 1402

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-13-6-1; IC 5-8-1-19; IC 31-30-1-2; IC 33-5-29.5; IC 33-5-29.6.

Synopsis: Lake superior court. Abolishes the superior court of Lake County. Establishes the Lake superior court. Provides for the election of the judges of the new court. Repeals the statute establishing the abolished court and deletes cross-references to the repealed law.

Effective: July 1, 1999; January 1, 2001.

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January 12, 1999, read first time and referred to Committee on Courts and Criminal Code.



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First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

HOUSE BILL No. 1402

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 3-13-6-1 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) A vacancy that occurs, other
3 than by resignation, in the office of judge of a circuit, superior, probate,
4 or county court shall be certified to the governor by the circuit court
5 clerk of the county in which the judge resided.
6 (b) A vacancy in the office of judge of a circuit court shall be filled
7 by the governor as provided by Article 5, Section 18 of the Constitution
8 of the State of Indiana. The person who is appointed holds the office
9 until:
10 (1) the end of the unexpired term; or
11 (2) a successor is elected at the next general election and
12 qualified;
13 whichever occurs first. The person elected at the general election
14 following an appointment to fill the vacancy, upon being qualified,
15 holds office for the six (6) year term prescribed by Article 7, Section 7
16 of the Constitution of the State of Indiana and until a successor is
17 elected and qualified.



(c) A vacancy in the office of judge of a superior, probate, or county court shall be filled by the governor subject to the following:

(1) IC 33-5-5.1-37.1.

(2) IC 33-5-5.1-41.1.

(3) **Before January 1, 2001**, IC 33-5-29.5-39 (**repealed January 1, 2001**).

(4) IC 33-5-40-44.

The person who is appointed holds office for the remainder of the unexpired term.

SECTION 2. IC 5-8-1-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 19. (a) Under Article 7, Section 13 of the Constitution of the State of Indiana, whenever a circuit, superior, probate, or county court judge or prosecuting attorney has been convicted of corruption or any other high crime, the attorney general shall bring proceedings in the supreme court, on information, in the name of the state, for the removal from office of the judge or prosecuting attorney.

(b) If the judgment is against the defendant, the defendant is removed from office. The governor, the officer, or the entity required to fill a vacancy under IC 3-13-6-2 shall, subject to:

(1) IC 33-5-5.1-37.1;

(2) IC 33-5-5.1-41.1;

(3) **Before January 1, 2001**, IC 33-5-29.5-39 (**repealed January 1, 2001**); and

(4) IC 33-5-40-44;

appoint or select a successor to fill the vacancy in office.

SECTION 3. IC 31-30-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. Except as provided in IC 33-5-29.5-4 (**repealed January 1, 2001**), **IC 33-5-29.6-5**, ~~IC 33-5-35.1-4~~, and section 8 of this chapter, the juvenile law does not apply to the following:

(1) A child at least sixteen (16) years of age who allegedly committed a violation of a traffic law, the violation of which is a misdemeanor, unless the violation is an offense under IC 9-30-5.

(2) A child who is alleged to have committed a violation of a statute defining an infraction, except as provided under IC 7.1-5-7.

(3) A child who is alleged to have committed a violation of an ordinance.

(4) A child who:

(A) is alleged to have committed an act that would be a crime if committed by an adult; and



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(B) has previously been waived under IC 31-30-3 (or IC 31-6-2-4 before its repeal) to a court having misdemeanor or felony jurisdiction.

SECTION 4. IC 33-5-29.6 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]:

Chapter 29.6. Lake Superior Court

Sec. 1. As used in this chapter, "circuit court" refers to the Lake circuit court.

Sec. 2. As used in this chapter, "court" refers to the Lake superior court established by section 3 of this chapter.

Sec. 3. (a) The Lake superior court is established as a court of record.

(b) Lake County comprises the judicial district of the court.

(c) The court may have a seal containing the words "Lake Superior Court".

Sec. 4. (a) The court consists of the following judges:

(1) Thirteen (13) judges who qualify for election under subsection (c).

(2) The circuit court judge if the circuit court judge chooses to sit on the court.

(b) The term of a judge described in subsection (a)(1) is six (6) years beginning January 1 following the judge's election and ending December 31 following the election of the judge's successor.

(c) To be eligible for election, a candidate must satisfy all of the following:

(1) The candidate is domiciled in Lake County.

(2) The candidate is a citizen of the United States.

(3) The candidate is admitted to the practice of law in Indiana.

Sec. 5. (a) The court has the following jurisdiction:

(1) The same jurisdiction as the circuit court in all civil and probate cases and matters, whether original or appellate.

(2) Original exclusive jurisdiction of all felony cases.

(3) Original concurrent jurisdiction of all misdemeanor cases, infraction cases, and ordinance violation cases.

(4) The same appellate jurisdiction in criminal cases as the circuit court.

(5) Original exclusive juvenile jurisdiction.

(b) The juvenile division of the court has exclusive jurisdiction over a child who:

(1) has been taken into custody in the county; and

(2) has allegedly committed an act that would be a



1 misdemeanor traffic offense if committed by an adult.

2 **Sec. 6. Each judge of the court:**

3 (1) has the same powers relating to the conduct of the business
4 of the court as the judge of the circuit court; and

5 (2) may administer oaths, solemnize marriages, and take and
6 certify acknowledgments of deeds.

7 **Sec. 7. (a) The clerk of the circuit court, under the direction of**
8 **the court, shall provide the following:**

9 (1) Order books.

10 (2) Judgment dockets.

11 (3) Execution dockets.

12 (4) Fee books.

13 (5) Other books for the court.

14 (b) The books and dockets shall be kept separately from the
15 books and papers of other courts.

16 **Sec. 8. (a) The court shall hold sessions in the places in Lake**
17 **County that the court determines.**

18 (b) The Lake County county executive shall provide and
19 maintain suitable courtrooms and other rooms and facilities,
20 including furniture and equipment, that are necessary.

21 (c) The Lake County fiscal body shall appropriate sufficient
22 funds for the provision and maintenance of the rooms and
23 facilities.

24 **Sec. 9. (a) The jury commissioner for the circuit court shall**
25 **serve as jury commissioner for the court.**

26 (b) Juries for the court shall be selected in the same manner as
27 juries for the circuit court.

28 (c) The grand jury selected for the circuit court shall also serve
29 as the grand jury for the court as necessary.

30 **Sec. 10. All Indiana law and rules adopted by the supreme court**
31 **of Indiana governing the circuit courts of Indiana apply to the**
32 **court. However, all of the following apply to the court:**

33 (1) Only a judge of the court may serve as a special judge
34 when a change of judge is requested from the court.

35 (2) A judge of the court does not receive compensation other
36 than regular salary for serving as a special judge if the change
37 of venue from the judge is granted by the court.

38 (3) The statutes and rules governing the records, procedures,
39 and practices of county courts apply to the county division of
40 the court.

41 **Sec. 11. (a) The court is divided into the following divisions:**

42 (1) Civil, including probate, comprising five (5) judges and



1 numbered "Civil Division, Room 1" through "Civil Division,
2 Room 5".

3 (2) Criminal, comprising four (4) judges and numbered
4 "Criminal Division, Room 1" through "Criminal Division,
5 Room 4".

6 (3) County, comprising three (3) judges and numbered
7 "County Division, Room 1" through "County Division, Room
8 3".

9 (4) Juvenile, comprising one (1) judge.

10 (b) The work of the court shall be divided among the divisions
11 by the rules of the court.

12 (c) The court by rule may alter the number of judges assigned
13 to a division other than the county division if the court determines
14 that the change is necessary for the efficient operation of the court.

15 (d) The judges shall be assigned to various divisions or rooms as
16 provided by rules of the court. Whenever possible, an incumbent
17 judge shall be allowed the option of remaining in a particular room
18 or division.

19 (e) Except as provided in subsection (g), the court by rule may
20 reassign a judge of the court from one (1) division to another
21 division if the court determines that the change is necessary for the
22 efficient operation of the court.

23 (f) Except as provided in subsection (g), the court by rule shall
24 establish a rotation schedule providing for the rotation of judges
25 through the various divisions. The rotation schedule may be used
26 if a judge determines that an emergency exists.

27 (g) A senior judge of a division or a judge of the county division
28 may not be reassigned or rotated to another division under
29 subsection (e) or (f).

30 (h) The chief judge of the court may do either of the following
31 if the chief judge determines that the change is necessary for the
32 efficient operation of the court:

33 (1) Assign a judge in one (1) division of the court to hear a
34 case originating in another division of the court.

35 (2) Reassign cases from one (1) judge to another.

36 Sec. 12. (a) The court by rules of the court shall designate one
37 (1) of the judges as chief judge and shall fix the term that the chief
38 judge shall preside. The chief judge is responsible for the efficient
39 operation and conduct of the court.

40 (b) The judges of each division of the court shall, in accordance
41 with the rules adopted by the judges of the division, designate a
42 judge as the senior judge of the division and fix the term that the

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1 senior judge serves.

2 (c) The senior judge of each division shall report to the chief
3 judge concerning how the division should best judicially operate.

4 Sec. 13. If an action of the entire court is required, the judges of
5 the court shall act in concert. If a disagreement occurs, the decision
6 of a majority of the judges controls. However, if the judges are
7 evenly divided, the decision joined by the chief judge controls.

8 Sec. 14. The judges of the criminal division may jointly appoint
9 two (2) full-time magistrates under IC 33-4-7. The magistrates
10 continue in office until removed by the judges of the criminal
11 division.

12 Sec. 15. (a) The judge of county division, room 1, county
13 division, room 2, and county division, room 3 of the court may each
14 appoint one (1) full-time magistrate under IC 33-4-7 to serve as the
15 court requires. A magistrate appointed under this section:

16 (1) must be a resident of the county; and

17 (2) continues in office until removed by the judge that the
18 magistrate serves.

19 (b) The appointment of a magistrate under this section must be
20 in writing.

21 (c) The judge may specifically determine the duties of the
22 magistrate within the limits established under IC 33-4-7.

23 Sec. 16. (a) The county executive shall provide and maintain
24 suitable facilities for the use of the magistrates, including necessary
25 furniture and equipment.

26 (b) The court shall employ administrative staff necessary to
27 support the functions of the magistrates.

28 (c) The county fiscal body shall appropriate sufficient funds for
29 the provision of staff and facilities required by this section.

30 Sec. 17. A magistrate is entitled to annual compensation as
31 established under IC 33-4-7-9.1. The state shall pay the salary set
32 under IC 33-4-7-9.1.

33 Sec. 18. (a) The senior judge of each division may appoint the
34 number of bailiffs, court reporters, probation officers, and other
35 personnel that the senior judge considers necessary to judicially
36 and efficiently facilitate and transact the business of the division.

37 (b) All appointments shall be made without regard to the
38 political affiliation of the appointees.

39 (c) The salaries of the court personnel shall be fixed and paid as
40 provided by law.

41 (d) The officers and persons appointed:

42 (1) shall perform the duties prescribed by the senior judge of



each respective division; and

(2) serve at the pleasure of the senior judge.

Sec. 19. (a) The court shall appoint an administrative officer who has the duties that the court determines necessary to ensure the efficient operation of the court.

(b) The court may appoint the number of deputy administrative officers that the court considers necessary to facilitate and transact the business of the court.

(c) An appointment of an administrative officer or a deputy administrative officer shall be made without regard to the political affiliation of the appointee.

(d) The salaries of the administrative officer and a deputy administrative officer shall be fixed by the court, to be paid out of the county treasury by the county auditor, upon the order of the court, and entered of record.

(e) An administrative officer or a deputy administrative officer appointed by the court:

(1) shall operate under the direction of the chief judge; and

(2) serves at the pleasure of the chief judge.

Sec. 20. The court may appoint part-time juvenile referees and magistrates as provided by IC 31-31-3.

Sec. 21. The court may appoint the number of probate commissioners provided for by IC 29-2-2. The probate commissioners shall be vested with the powers and duties provided by IC 29.

Sec. 22. The judge of the circuit court may, with the consent of the court, transfer any action, cause, or proceeding filed and docketed in the circuit court to the court by transferring all original papers and instruments filed in the action, cause, or proceeding and without further transcript to be redocketed and disposed of as if originally filed with the court.

Sec. 23. A judge of the court may, with the consent of the judge of the circuit court, transfer any civil action, cause, or proceeding filed and docketed in the court to the circuit court by transferring all original papers and instruments filed in the action, cause, or proceeding without further transcript to be redocketed and disposed of as if originally filed with the circuit court.

Sec. 24. The judge of the circuit court may, at the judge's discretion, sit as a judge of the court, with the court's permission, in the civil division in the same manner as a judge of the court.

Sec. 25. A judge of the court may not, during a term of office as judge of the court, do any of the following:



(1) Engage in the practice of law.

(2) Run for elective office, unless the elective office is that of judge of the court.

(3) Take part in any political campaign.

SECTION 5. IC 33-5-29.5 IS REPEALED [EFFECTIVE JANUARY 1, 2001].

SECTION 6. [EFFECTIVE JULY 1, 1999] (a) As used in this SECTION, "court" refers to the Lake superior court established by IC 33-5-29.6-3, as added by this act.

(b) Notwithstanding IC 33-5-29.6-4, as added by this act, the terms of the initial judges elected to the court are as follows:

(1) The term of the judge elected to each of the following is two (2) years, beginning January 1, 2001:

(A) Lake superior court, civil division, room 1.

(B) Lake superior court, civil division, room 2.

(C) Lake superior court, criminal division, room 1.

(D) Lake superior court, county division, room 1.

(2) The term of the judge elected to each of the following is four (4) years, beginning January 1, 2001:

(A) Lake superior court, civil division, room 3.

(B) Lake superior court, criminal division, room 2.

(C) Lake superior court, criminal division, room 3.

(D) Lake superior court, county division, room 2.

(3) The term of the judge elected to each of the following is six (6) years, beginning January 1, 2001:

(A) Lake superior court, civil division, room 4.

(B) Lake superior court, civil division, room 5.

(C) Lake superior court, criminal division, room 4.

(D) Lake superior court, county division, room 3.

(E) Lake superior court, juvenile division.

(c) The initial election of the judges of the court is the general election to be held November 7, 2000.

SECTION 7. [EFFECTIVE JULY 1, 1999] (a) As used in this SECTION, "court" refers to the Lake superior court established by IC 33-5-29.6-3, as added by this act.

(b) On January 1, 2001, the superior court of Lake County established by IC 33-5-29.5-1 is abolished and all powers, duties, and functions adhering to the court terminate.

(c) Notwithstanding IC 33-5-29.5 or any other statute, the term of a judge holding office under IC 33-5-29.5 expires on January 1, 2001.

(d) On January 1, 2001, all property of the superior court of

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- 1 **Lake County established by IC 33-5-29.5-1 and all causes of action**
- 2 **pending before the superior court of Lake County are transferred**
- 3 **to the Lake superior court.**
- 4 **(e) This SECTION expires January 2, 2001.**

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